
GENERAL TERMS AND CONDITIONS FOR PURCHASING

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www.dvksystem.it

1. DEFINITIONS

In these Conditions the following words shall have the following meanings:

"Buyer"	DVK System S.r.l. as stated on the relevant Order.
"Seller"	the company with whom the Buyer places an Order for the purchase of Products and which expression shall include (jointly and severally) any principal on whose behalf the Seller accepts an Order.
"Contract"	any contract executed between the Buyer and the Seller for the sale and supply of Products pursuant to the Order.
"Products"	the products designated or referred to in the Order.
"Delivery"	the delivery of the Products by the Seller in accordance with the terms and conditions agreed in each Order.
"Order"	the written purchase order placed with the Seller by the Buyer.
"Specification"	the technical or other description (whether as to quantity, quality, price, weight or otherwise) of the Products shown or referred to in the Order and any performance scheduled and/or other characteristics and details contained, mentioned or referred to therein or prepared in accordance therewith.

2. BASIS OF PURCHASE

- 2.1. All contracts shall be executed upon the basis of these General Terms and Conditions for Purchasing together with any special conditions agreed upon between the Buyer and the Seller at any time prior to or with the Order and Order confirmation. Variations and/or qualifications of such conditions can only be effected by a document signed by the Buyer and the Seller.
- 2.2. No terms or conditions submitted by the Seller to the Buyer, regardless of their date, shall prevail over these Conditions.
- 2.3. All Orders shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these Conditions and despatch or Delivery of the Goods by the Seller to the Buyer shall be deemed conclusive evidence of the Seller's acceptance of these Conditions.

3. ORDERS

- 3.1. The Buyer shall be bound by an Order sent by the Buyer to the Seller.
- 3.2. The Buyer shall be entitled to cancel any Order and so terminate the Contract to which it relates which is not unconditionally accepted by the Seller in writing within 5 (five) days of its date. If the Supplier does not confirm the Order, the Buyer is entitled to revoke the order and to claim for any consequential damage.
- 3.3. The Buyer may ask for modifications of the design and construction of the Products within 30 (thirty) days from the date of the Order.

4. WARRANTY, QUALITY, DESCRIPTION

- 4.1. In addition and without prejudice to all other conditions or warranties, express or implied, the Seller hereby expressly warrants as follows:
 - (a) upon Delivery of the Products and for a reasonable period thereafter (taking into account the type of Products concerned) the Products shall be of merchantable quality and fit for their purpose, free from defects, and/or damage caused by improper storage or otherwise of the nature, substance and quality described in the Order and Order confirmation and shall correspond with any specification, design, drawing or sample to which the Order shall made reference;
 - (b) the Seller and/or the Products (as appropriate) shall comply with the requirements of all European Union Laws, Rules and Regulations as well as all acts of the Italian Parliament and/or Government and all other requirements (whether national or international) which apply to the manufacture, storage and delivery of the Products;
 - (c) the Seller shall be liable for and shall indemnify the Buyer from and against all liabilities, losses, costs, damages, claims and expenses (including legal expenses and any and all consequential loss or damage) which would not have been caused or made had the Seller fulfilled its express or implied obligations under the Contract.

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- 4.2. If the Products and/or their supply and/or use are the subject of statutory or other safety regulations the Seller shall provide to the Buyer all qualification, homologation and/or certification or other information required by the Buyer according to the said regulations or deemed necessary and required by the Buyer to verify compliance with the same.
- 4.3. The Seller and, upon 10 (ten) days written notice, shall permit access by and facilities for authorised representatives of the Buyer at all reasonable times to inspect any premises where Products to be purchased by the Buyer are manufactured, produced or stored and to examine materials to be used in such manufacture and/or production. Following such inspection and examination the Buyer shall be entitled to make written recommendations to the Seller in respect of the manufacture, production or storage of the Products which the Seller shall put in force forthwith upon its receipt of such notification; in case of non compliance after 5 (five) days from the written notice from the Buyer, the latter shall only be entitled not to place any further order with the Seller. For the avoidance of doubt, any such compliance, assistance, inspection or examination shall not derogate from the Seller's other obligations under these Conditions. The Buyer has the right to request at any time pictures, video or other material concerning the development of the manufacturing of the Products.
- 4.4. Without prejudice to any other remedy the Buyer shall be entitled to reject or refuse to accept any Products which fail to comply with the provisions of the Order, upon notice of the non compliance of the Products, given in writing to Seller within 60 (sixty) days from the discovery thereof.
- 4.5. Where the Buyer is entitled to reject or refuse to accept any Products:
- (a) the Buyer shall not be obliged to return the Products to the Seller but, if it elects to do so, they shall be so returned at the expense and risk of the Seller;
 - (b) at the option of the Buyer:
 - (i) the Seller shall replace the Products; or repair it by sending, at its own costs, technical personnel at the Buyer's premises within 5 (five) days starting from the Buyer's written request;
 - (ii) in case the Seller do not comply with the obligation indicated in the paragraph here above, the Buyer shall be entitled to terminate the Contract as discharged by the Seller's breach and require immediate repayment of any part of the price of the defective Products which has been paid by the Buyer; without prejudice to any and the Seller shall be liable to repay any monies already paid by the Buyer in respect of the Contract together with the penalty of the 5% (five per cent) of the price of the defective Products. The costs and risk concerning the return of the defective Products shall be borne by the Seller.
 - (c) if requested by the Buyer, the Seller shall destroy any such Products bearing the Buyer's name, trademarks or those of the Buyer's Customer.

5. INDEMNITY

- 5.1. The Seller shall be liable for and shall indemnify the Buyer from and against all liabilities, losses, costs, damages, claims and expenses (including legal expenses and any and all consequential loss or damage) incurred by or made against the Buyer by any third party which would not have been

caused or made had the Seller fulfilled its express or implied obligations under the Contract including, but not exclusively:

- (a) in respect of any breach of warranty given by the Seller in relation to the Products;
- (b) in respect of death or personal injury, loss of or damage to property and all sums expended by the Buyer in securing alternative supplies of all or any of the Products (including any sum expended by reason of any increase in costs thereof and compensation for any loss to the Buyer caused by any consequent delay);
- (c) arising out of the acts and omissions of the Seller, its sub-contractors or their respective employees or agents; and the Seller shall effect and maintain a policy or policies of insurance to cover such of the aforementioned liabilities as are relevant to the Contract in such sums as may be required by the Buyer and shall produce such policy or policies and evidence of payment of the premiums therefore if so requested by the Buyer. In the event that the Seller shall fail to maintain such insurance policy(ies) the Buyer shall be entitled to effect the same on behalf of and at the expense of the Seller.

5.2. The Seller shall further be liable for and shall indemnify the Buyer from and against any claims for infringement of any letters patent, copyright, registered design or trade mark or other intellectual property rights by reason of the use or sale of the Products supplied, (save and to the extent that the same shall have been manufactured or produced in accordance with any Specification or design supplied by the Buyer), and against all losses, costs, damages, expenses and/or claims for which the Buyer may become liable as a result of such claims for infringement.

6. DELIVERY-TIME

- 6.1. Delivery-Time shall be of the essence of the Contract where a Delivery date is specified in the Order, except in the case where such date is stated as approximate or is not specified.
- 6.2. If the Seller is, or is likely to be, unable to effect Delivery on or by the date so specified in the Order, the Seller shall give to the Buyer written notice - within 5 (five) days starting from the Order receipt - of the relevant circumstances together with a date upon which the Seller reasonably expects to be able to fulfil the Order.
- 6.3. Notwithstanding the service of any such notice as aforesaid, (save where the Buyer has given to the Seller a written extension of time and the period thereof has not expired), failure by the Seller to adhere to any provision as to time contained, mentioned or referred to in the Order shall entitle the Buyer to terminate the Contract, without prejudice to any other remedy, whereupon property and risk in any Products already delivered and affected by such written determination shall revert to the Seller and the Seller shall be liable to repay any monies already paid by the Buyer in respect of the Contract together with the daily penalty of the 1% (one per cent) of the price of the Products to be delivered.

7. **DELIVERY-TERM**

- 7.1. The Products, properly packed and secured in such a manner as to reach their destination in good condition, shall be delivered DAP Incoterms® ICC 2020 to the Buyer's premises in Italy, except if different delivery manners are agreed in the Order and in the Order confirmation. Each container and/or package of Products must be marked to show Order number, contents, quantity, batch code, date of manufacture or production, appropriate date coding and carrier's name.
- 7.2. Delivery shall be effected upon the signature of the carrier's consignment note for the Products by an employee or representative of the Buyer.
- 7.3. In the event that Products are delivered before the Delivery date specified in the Order without the express written consent of the Buyer, the Buyer shall be entitled to refuse to take Delivery or to charge for insurance and storage thereof until the contractual date for Delivery.
- 7.4. In the event that the delivery Products are delayed for reason attributable to the Seller, the Buyer shall be entitled – at its own discretion - to fix a new delivery term and payment in order to permit to the Buyer a production rescheduling. In any case the Buyer is entitled to request the Seller to postpone the delivery giving prior written notice.
- 7.5. If for any reason the Buyer is unable to accept Delivery of the Products at the time when the Products are due and ready for Delivery and notifies the Seller accordingly, the Seller shall store the Products for a reasonable time having regard to the circumstances and shall safeguard them and take all reasonable steps to prevent their deterioration until their actual Delivery, which shall take place upon the Buyer's written request and not earlier than 10 (ten) days from the receipt of such notice.

8. **PACKAGING**

- 8.1. The Buyer shall not be liable to pay for any returnable containers unless expressly agreed in writing.
- 8.2. The packaging must be made following the Buyer's guidelines. Any other returnable items different from containers are to be supplied by the Seller free of charge but shall be returned at the request, risk and expense of the Seller.

9. **PRICE AND PAYMENT**

- 9.1. The price of the Products shall be as specified in the Order and, unless otherwise stated, shall be deemed to include VAT (where appropriate), packaging, carriage and insurance of the Products until Delivery thereof is made.
- 9.2. The settlement of invoices shall be subject to all details on the Seller's invoice being consistent with those shown on the Order or in the Order confirmation. In particular, in order for invoices to be settled by the Buyer, the Seller must state the Buyer's Order number on each invoice submitted.

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- 9.3. No increase in the price specified in the Order may be made for any reason without the written consent of the Buyer.
- 9.4. No payment of or on account of the price shall constitute any admission by the Buyer as to proper performance by the Seller of its obligations under the Contract.
- 9.5. Unless otherwise provided by the Order, the price shall be payable by the Buyer to the Seller before the expiry of 120 (one hundred and twenty) days from the date of Delivery.
- 9.6. In case of defect and/or late Delivery, the Buyer is entitled to withhold payment proportionate to price until proper performance is made.

10. RISK AND PROPERTY

- 10.1. Risk of damage to or loss of the Products shall pass to the Buyer upon Delivery following the Incoterms indicated in the par.7 of the present General Conditions for Purchasing.
- 10.2. The right of property to all Products supplied pursuant to the Contract shall pass to the Buyer on their Delivery following the Incoterms indicated in the par. 7 of the present General Conditions for Purchasing.

11. SPECIFICATIONS AND DESIGNS

- 11.1. Any price quoted in the Order shall be deemed to include the price of any design and specification.
- 11.2. Where any such items are held by the Seller it shall keep such items in safe custody.

12. CANCELLATION AND TERMINATION

- 12.1. In addition to the right of termination set out in par. 3.2 of the present General Conditions for Purchasing, the Buyer shall be entitled to cancel the Order in respect of all or any part of the Products by giving notice to the Seller at least 15 (fifteen) days prior to the Seller's Order acceptance. In such a case the Buyer shall not be liable for any loss or damage whatever arising from such cancellation.
- 12.2. Without prejudice to any other rights or remedies to which it may be entitled, each party may terminate the Contract forthwith without liability in the event that:
- (a) the other party shall become bankrupt or unable to pay its debts as they fall due or compound with its creditors or in the event of a resolution being passed or proceedings commenced for the administration or liquidation of the other party (other than for a voluntary winding up for the purpose of consolidation or corporate merger) or if a Receiver or Manager is appointed of all or any part of its assets or of its company;
 - (b) the other party commits any fundamental breach of its obligations. The parties agree that are considered fundamental breach of the Contract the no-fulfilment of the obligations indicated in the following paragraphs here above: 4, 5, 6 and 7 of the present General Conditions for Purchasing;

(c) the Buyer shall receive information which leads it reasonably to believe that the Seller will be unable to complete the Contract satisfactorily and on time;

12.3 In any such circumstances, each party shall be entitled to terminate the Contract in whole or in part by notice in writing.

13. ASSIGNMENT AND SUB-CONTRACTING

13.1 The Seller shall not assign or sub-contract the Contract or any part thereof without the express written Buyer's authorization.

13.2 Any authority given by the Buyer for the Seller to sub-contract the Contract or any part thereof shall not hold harmless the Seller of any of its obligations there under nor impose any duty on the Buyer to enquire as to the competence of any authorised sub contractor but the Seller shall ensure that any authorised sub-contractor is competent and complies with the relevant provisions of the Contract.

13.3 Upon the Seller's written consent the Buyer may assign the Contract which shall ensure to the benefit of its successors and assigns.

14. FORCE MAJEURE

Neither the Buyer nor the Seller shall be liable for any delay or failure to perform obligations hereunder where such delay or failure is due to Act of God, pandemic, war, riot, civil commotion or any governmental restriction, order or regulation or statutory prohibition. The party affected by any such event shall promptly notify the other of the event and performance of the Contract shall be suspended for three months. After such period of time the Buyer shall be entitled to terminate the contract with the immediate effect and without any obligation for damages.

15. WAIVER

No failure of, or delay or forbearance by the Buyer (whether express or implied) in asserting or exercising any rights or remedies under the Contract shall affect its right to do so in the future.

16. CONTRACT PARTIALLY VOID

If at any time any one or more of these Conditions (or any part or parts thereof) is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted here from and the validity and/or enforceability of the remaining provisions of these Conditions shall not in any way be affected or impaired thereby.

17. WHOLE AGREEMENT

Each party acknowledges that the Contract together with any variations and/or qualifications made pursuant to these Conditions contains the whole agreement between the parties and that it has not relied upon any oral or written representation made to it by the other or its employees or agents except for what agreed in writing between the Seller and the Buyer after the entry into force of the present Terms and Conditions for Purchasing.

18. NOTICES

Any notices to be served hereunder shall be delivered by email or sent by registered mail with the correct answerback to the relevant party at its last known address. Notice shall be deemed served on delivery if delivered by hand, on the day of receipt if posted by registered mail with return receipt.

19. LAW AND JURISDICTION

- (a) This Agreement shall be governed by the United Nations Convention for International Sale of Goods, Vienna 1980 and for what not contemplated in this Convention by the Italian laws.
- (b) Any dispute arising out of or related to the present contract shall be settled by arbitration under the Rules of the Chamber of Arbitration of Milan (the Rules), by a sole arbitrator, appointed in accordance with the Rules. Place of the Arbitration shall be Milan, Italy. Language of the Arbitration shall be English.